

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

REYNALDO SOTO,

18cv3602 (JGK)

Plaintiff,

ORDER

- against -

LOS CORBATICAS DELI GROCERY II CORP.
et al.,

Defendant.

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DATE FILED: 11/23/2018

JOHN G. KOELTL, District Judge:

The Court has reviewed the Report and Recommendation of Magistrate Judge Cott, dated October 5, 2018. The Magistrate Judge recommends that the Court enter the following judgments against defendants Los Corbaticas Deli Grocery II Corp. and Wilson Sanchez: (1) a damages award for the plaintiff in the amount of \$51,072.96; (2) prejudgment interest at a rate of nine percent per annum on a balance of \$20,536.48 from January 1, 2017, until the date judgment is entered; (3) attorneys' fees and costs in the amount of \$2,843.75; and (4) post-judgment interest on all sums awarded against the defendants.

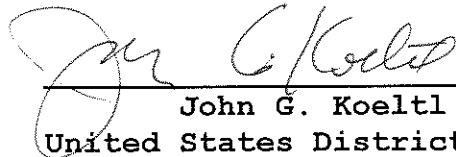
No objections have been filed to the Report and Recommendation, and the time for any objections has passed. In any event, the Court finds that the Report and Recommendation is

well reasoned and its conclusions are well founded.¹ The Court therefore adopts the Report and Recommendation and directs the Clerk to enter Judgment in favor of the plaintiff in the amount of \$51,072.96. The Clerk is further directed to calculate prejudgment interest at a rate of nine percent per annum on a balance of \$20,536.48 from January 1, 2017, until the date judgment is entered; enter Judgment awarding attorneys' fees and costs in the amount of \$2,843.75; and award post-judgment interest on all sums awarded against the defendants.

The Clerk is directed to close all pending motions, and to close this case.

SO ORDERED.

**Dated: New York, New York
November 23, 2018**



**John G. Koeltl
United States District Judge**

¹ The Court adopts the Report and Recommendation, but adds the following notes. First, on page 6 of the Report and Recommendation, in reciting the law for claims made under the Fair Labor Standards Act and New York Labor Law, the Report and Recommendation states that "[u]nder these laws, a plaintiff must establish that (1) the defendants are employers, and (2) the employer is engaged in interstate commerce." To be clear, the requirement of showing that an employer engaged in interstate commerce applies only to the Fair Labor Standards Act, and not the New York Labor Law. See NYLL § 663. Second, in its calculation of damages, in some instances the Report and Recommendation does not include the full amount of time the plaintiff worked. For example, for the pay period December 21, 2016, to December 31, 2016, the Report and Recommendation only calculates wages for one week, despite that time period encompassing 10 days. (See R. & R. at 11.) The Report and Recommendation also lists the plaintiff's last day of work as January 8, 2018, although the plaintiff's declaration states that his last day of work was on January 9, 2018. However, this calculation is copied from the calculation of damages submitted by the plaintiff and, in any event, none of the parties have objected to the Report and Recommendation and the time for such an objection has passed. Thus, the Court approves of and adopts the Report and Recommendation's damages calculation.